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SCULLY, SCOTT, MURPHY, & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
DAO, THUY CHAN	

ART UNIT	PAPER NUMBER
2192	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/714,303	MCCAIN, BRIAN S.	
	Examiner	Art Unit	
	Thuy Dao	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) ___ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the amendment filed on January, 2009.

2. Claims 1-14 have been examined.

Response to Amendments

3. In the instant amendment, claims 1 and 9 have been amended.

Response to Arguments

4. Applicants' arguments have been considered.

a) Old limitations "*enabling the client host to request and download additional code as needed*" (e.g., claim 1, line 14 and Remarks, page 9, last paragraph):

The examiner respectfully disagrees with Applicants' assertions. As previously set forth, Tompkins explicitly teaches:

a client host (e.g., FIG. 1, Client Administrator 104 as a client host, which administers a plurality of servers 102 within network 114, such as a first server and a second server)

enabling the client host to request and download additional code as needed (e.g., FIG. 1, col.6: 18-67, enabling Client Administrator 104 to request and download additional code to administer a third server 102 without pre-configuration, i.e., enabling downloading additional code as needed, col.2: 54-60 and col.7: 60-67),

the additional code being code that the client host needs to perform a function as the client host performs work (e.g., col.6: 18-67 and FIG. 1, Client Administrator 104 currently administers a first server and a second server and now needs additional code to administer the third server 102, col.7: 60-67).

b) New limitations "*wherein software from the first server and the different server is dynamically downloaded and used on an as needed basis*" (e.g., claim 1, lines 17-18 and Remarks, pages 9-10):

After further consideration, the examiner notes that Tompkins also teaches "*wherein software from the first server and the different server is dynamically downloaded and used on an as needed basis*" (e.g., col.7: 60-67, first software from the first server, client-side code from the different server are downloaded "without pre-configured knowledge of the existence of a particular server" (dynamically) and the Client Administrator 104 does not need to store/install said first software and/or said client-side code in advance (only downloading on an as-needed basis), col.6: 18-67 and col.2: 55-60, emphasis added).

In conclusion, the examiner respectfully maintains ground of the 35 USC §103 rejection over claims 1-14.

Claim Rejections – 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tompkins (art of record, US Patent No. 6,862,616) in view of Zilliacus (art of record, US Patent No. 6,832,230).

Claim 1:

Tompkins discloses a program storage device and *a method for use by a client host in obtaining software* (e.g., FIG. 1, Client Administrator 104 as a client host, which administers a plurality of servers 102 within network 114, col.3: 51 – col.4: 65), *comprising:*

establishing a session with a first server host (e.g., col.2: 41-60; col.4: 12-29)*; and*

downloading first software from the first server host for use during the session to implement a client side of a first version of a first network application (e.g., col.4: 30-65; col.3: 46 – col.4: 11)*,*

the client side initially not having a functionality for implementing the first network application (e.g., col.2: 41 – col.3: 23)*;*

wherein the first software is compatible with software executed at the first server host to implement a server side of the first version of the first network application (e.g., FIG. 2, col.5: 1-63);

enabling the client host to communicate with a different server that is using a version of the first network application and allowing the client host to download client-side code of the different version of the same first network application from the different server (e.g., col.1: 11-18; col.4: 2-11; FIG. 4, col.6: 18 – col.7: 59)*,*

wherein the client host is allowed to communicate simultaneously with one or more different servers even if the different servers are running different versions of the same first network application (e.g., col.5: 64 – col.6: 17; col.7: 49-59)*;*

enabling the client host to request and download additional code as needed (e.g., FIG. 1, requesting and downloading additional code to administer a third server 102, FIG. 1, col.3: 60 – col.4: 11)*,*

the additional code being code that the client host needs to perform a function as the client host performs work (e.g., col.2: 41—col.3: 23; FIG. 2, col.5: 1-63;) *and*

determines that the client host does not have the needed additional code in the first software to perform the function (e.g., col.7: 60 – col.8: 5, the third server 102 may be administered for the first time and Client Administrator 104 needs to download the client-side code to administer said third server 102; col.1: 11-18; col.4: 2-11; FIG. 4, col.6: 18 – col.7: 59)*,*

wherein software from the first server and the different server is dynamically downloaded and used on an as needed basis (e.g., col.7: 60-67, first

software from the first server, client-side code from the different server are downloaded "without pre-configured knowledge of the existence of a particular server" (dynamically) and the Client Administrator 104 does not need to store/install said first software and/or said client-side code in advance (only downloading on an as-needed basis), col.6: 18-67 and col.2: 55-60, emphasis added).

Tompkins does not explicitly discloses *implementing at the client host a timer for deleting said first software after a predetermined amount of time, said timer being set by said first server host or said client host.*

However, in an analogous art, Zilliacus further discloses:

implementing at the client host a timer for deleting said first software after a predetermined amount of time (e.g., col.3: 54 – col.4: 5; col.4: 9-29; col.6: 23-29),

said timer being set by said first server host or said client host (e.g., col.9: 11-18; col.3: 54-61; col.4: 9-19).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Zilliacus' teaching into Tompkins' teaching. One would have been motivated to do so to obtain applications on an as needed basis and/or free memory space for new applications as suggested by Zilliacus (e.g., col.9: 11-18; col.3: 34-43; col.6: 53-63).

Claim 2:

The rejection of claim 1 is incorporated. Tompkins also discloses *downloading the first software from the first server host dynamically, as needed, by the client host* (e.g., col.3: 51 – col.4: 65; col.2: 41-60).

Claim 3:

The rejection of claim 1 is incorporated. Tompkins also discloses *the client host initiates the downloading when it determines that it needs the first software to interact with the first server host* (e.g., col.4: 12-65; col.5: 1-63).

Claim 4:

The rejection of claim 1 is incorporated. Tompkins also discloses *downloading the first software as at least one object using at least one specialized class loader* (e.g., col.6: 18 – col.7: 59).

Claim 5:

The rejection of claim 1 is incorporated. Tompkins also discloses:

establishing a session with a second server host; and downloading second software from the second server host for use during the session therewith to implement a client side of a second version of the first network application that differs from the first version (e.g., col.2: 41 – col.3: 23; col.5: 64 – cool.6: 17);

wherein the second software is compatible with software executed at the second server host to implement a server side of the second version of the first network application (e.g., col.3: 51 – col.4: 65; col.6: 18 – col.7: 59).

Claim 6:

The rejection of claim 5 is incorporated. Tompkins also discloses *the sessions with the first and second server hosts overlap, at least in part* (e.g., col.5: 1-63; col.3: 46 – col.4: 11).

Claim 7:

The rejection of claim 1 is incorporated. Tompkins also discloses:

establishing a session with a second server host; downloading second software from the second server host for use during the session therewith to implement a client side of a second network application that differs from the first network application (e.g., col.3: 51 – col.4: 65; col.6: 18 – col.7: 59);

wherein the second software is compatible with software executed at the second server host to implement a server side of the second network application (e.g., col.2: 41 – col.3: 23; col.4: 12-65).

Claim 8:

The rejection of claim 1 is incorporated. Tompkins also discloses:

establishing a further session with the first server host; downloading second software from the first server host for use during the further session to implement a client side of a second network application that differs from the first network application (e.g., col.5: 1-63; col.3: 46 – col.4: 65);

wherein the second software is compatible with software executed at the first server host to implement a server side of the second network application; and the session and further session with the first server host overlap, at least in part (e.g., col.2: 41 – col.3: 23; col.6: 18 – col.7: 59).

Claims 9-14:

Claims 9-14 are program storage device versions, which recite the same limitations as those of claims 1-8, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claims, they also teach all of the limitations of claims 9-14.

Conclusion

7. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone/fax numbers are (571) 272 8570 and (571) 273 8570, respectively. The examiner can normally be reached on every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thuy Dao/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192